

1 Thomas J. Speiss, III (Bar No. 200949)
2 VENABLE LLP
3 2049 Century Park East, Suite 2100
4 Los Angeles, California 90067
5 Telephone: (310) 229-9906
6 Facsimile: (310) 226-9901
7 tspeiss@venable.com

8 Counsel for Defendants HILTON HOTELS CORP.
9 HILTON SUPPLY MANAGEMENT, INC., KEVIN A.
10 BARRY, and KEVIN BARRY FINE ART ASSOCIATES

11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN FRANCISCO DIVISION**

14 BERENICE BRACKETT,

15 Plaintiff,

16 vs.

17 HILTON HOTELS CORP., et al.,

18 Defendants.

Case No. C08-2100-WHA

**DECLARATION OF KEVIN BARRY IN
SUPPORT OF REPLY
TO DEFENDANTS' MOTION TO DISMISS
OR TRANSFER FOR IMPROPER VENUE;
OR IN THE ALTERNATIVE TO TRANSFER
FOR CONVENIENCE; AND MOTION TO
DISMISS COUNTS III AND IV FOR FAILURE
TO STATE A CLAIM**

19 I, Kevin A. Barry, declare:

20 1. I have personal knowledge of the facts in this declaration. If called as a witness I
21 could and would testify to them.

22 2. I am president and owner of Kevin Barry Fine Art Associates, which is located at
23 8210 Melrose Avenue, Los Angeles, California 90046. I live in Agoura Hills, California, which is
24 located within Los Angeles County.

25 3. The West Coast Hilton Hotel-franchised "model suites" displaying the model
26 Homewood Suite hotel room — which a potential franchisee can view before purchasing a
27 Homewood Suite franchise, and which allegedly displays the infringing posters — are located within
28 Los Angeles County.

1 4. Many of the percipient witnesses, including employees of the Defendants and of third
2 party designers that will assist all Defendants in defending against the copyright infringement
3 allegation, reside and are located within Los Angeles County.

4 5. I did not know that the Plaintiff was located in the Northern District, and did not have
5 any knowledge that the brunt of the harm — or any harm — that may have been caused to the
6 Plaintiff based upon the alleged acts of infringement would be felt in the Northern District. Upon my
7 information and belief, none of the other named defendants knew that the Plaintiff was located in
8 the Northern District, and they did not have any knowledge that the brunt of the harm, if any, that
9 may have been caused to the Plaintiff based upon the alleged acts of infringement would be felt in
10 the Northern District.

11 6. I had no knowledge that the allegedly infringing artwork was created by a northern
12 California artist, would be displayed in hotel rooms in northern California, and still have no
13 knowledge or belief that the allegedly infringing artwork has ever been displayed in northern
14 California.

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16 I declare that the above is true under penalty of perjury under the laws of the State of
17 California. Executed on this 5th day of June, 2008 in Los Angeles, California.

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21 Kevin A. Barry
22 Declarant
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